

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CENTRAL STATES, SOUTHEAST AND)	
SOUTHWEST AREAS PENSION FUND,)	
<i>et al.</i> ,)	
)	
Plaintiffs,)	
)	Case No. 10 CV 6881
v.)	
)	Hon. John W. Darrah
HOPE READIMIX, LLC, <i>et al.</i> ,)	
)	
Defendants.)	

**PLAINTIFFS' MOTION FOR
ENTRY OF A FINAL JUDGMENT ORDER**

NOW COME the Plaintiffs, by their undersigned counsel, and move for the entry of a final judgment order, in support stating as follows:

1. This case is an action to collect withdrawal liability, interest, and damages due pursuant to the Employee Retirement Income Security Act. On December 2, 2011, this Court entered summary judgment in favor of the Plaintiffs and against the Defendants.

2. On December 5, 2011, after the Court had entered judgment, but before the Plaintiffs received notice of the order via the Court's CM/ECF system on December 7, 2011, the Plaintiffs and the Defendants filed a joint motion for entry of a consent judgment (which the Plaintiffs had presented to the Defendants in August). However, because the Court had already entered summary judgment prior to the filing of that motion, the Plaintiffs now take the position that it is moot and

ought to be denied on that basis. Instead, this Court should enter a final judgment order consistent with its December 2, 2011 ruling.

3. The Court's summary judgment order awarded the Plaintiffs damages pursuant to 29 U.S.C. §§ 1451(b) and 1132(g)(2), including withdrawal liability principal in the amount of \$45,089.25, and pre-judgment interest, liquidated damages, post-judgment interest, attorneys' fees, and costs. The Court requested that the Plaintiffs submit a proposed order and supporting documentation setting forth the exact amount of the pre-judgment interest, liquidated damages, attorneys' fees, and costs to be awarded.

4. Attached to this memorandum as Exhibit A is the affidavit of Andrew Sprau, which establishes the amount of pre-judgment interest due and the amount of liquidated damages due. Pursuant to 29 U.S.C. § 1132(g)(2), pre-judgment interest is computed and charged at the rate set by the plan. Using the rate set by the Plaintiffs' plan, pre-judgment interest through December 2, 2011 is calculated to be \$3,760.86. *See* Exhibit A, ¶4.

5. In addition, pursuant to 29 U.S.C. § 1132(g)(2)(C), the Court awarded liquidated damages, calculated as the greater of the interest due or 20% of the unpaid principal. In this case, liquidated damages are 20% of the unpaid principal, an amount equal to \$9,017.85. *See* Exhibit A, ¶5.

6. The Court has also awarded the Plaintiffs their reasonable attorneys' fees and costs under 29 U.S.C. § 1132(g)(2)(D). Attached to this memorandum as

Exhibit B is the affidavit of Edward H. Bogle, which establishes the amount of attorneys' fees as \$9,988.00, and the amount of costs as \$448.20. *See* Exhibit B, ¶3.

7. Finally, the Plaintiffs have attached to this memorandum as Exhibit C (and submitted to the Court via email to proposed_order_darrah@ilnd.uscourts.gov) a draft final judgment order, which recites the award made in the Court's December 2, 2011 order (including the principal amount of \$45,089.25 and post-judgment interest at the rate set by the Plaintiffs' plan), and incorporates the additional amounts submitted herewith.

WHEREFORE, consistent with the Court's December 2, 2011 judgment, the Plaintiffs request that the Court enter final judgment in their favor in the total amount of \$68,304.16, in the form attached hereto as Exhibit C, and grant all other just and appropriate relief.

Dated: December 8, 2011

Respectfully submitted,

/s/ Edward H. Bogle

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CERTIFICATE OF SERVICE

I, Edward H. Bogle, attorney for the Plaintiffs, hereby certify that on December 8, 2011, I caused the foregoing Plaintiffs' Motion for Entry of a Final Judgment Order to be filed electronically. Said document was served by the Court's CM/ECF system on all individuals listed on the electronic filing receipt.

/s/ Edward H. Bogle

Edward H. Bogle
Attorney for Plaintiffs